

January 6, 1999

Mr. Miles K. Risley
City Attorney
City of Victoria
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OR99-0010

Dear Mr. Risley:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 120828.

The City of Victoria (the "city") received a request for "any records regarding the investigation on the hit and run accident on 7-30-98." In response to the request, you submit to this office for review the information which you assert is responsive. You state that you have released some of the requested information.¹ However, you claim that the remaining information is excepted from required public disclosure by section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the submitted documents.

Section 552.108, the "law enforcement" exception, reads as follows:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation

¹As you have noted, basic information normally found on the front page of an offense report, including a detailed description of the offense, is generally considered public. See Gov't Code § 552.108(c); *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976).

to an investigation that did not result in conviction or deferred adjudication; or

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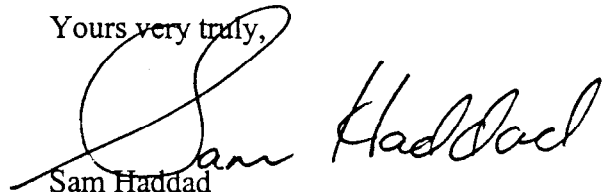
(c) This section does not except from the requirements of section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

Gov't Code § 552.108. Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1).

You state section 552.108 is applicable, because the requested information "is currently being reviewed by the police department as an aggravated assault for possible presentation to the City Attorney or District Attorney for prosecution." As the requested records relate to a pending criminal investigation or prosecution, we find that release of the requested information would interfere with the detection, investigation, or prosecution of crime. Therefore, except as noted above, the remaining information may be withheld pursuant to section 552.108(a)(1).²

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Sam Haddad
Assistant Attorney General
Open Records Division

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²Although section 552.108 authorizes you to withhold the remaining information from public disclosure, you may choose to release all or part of the information at issue that is not otherwise confidential by law. *See* Gov't Code § 552.007.

Ref.: ID# 120828

Enclosures: Submitted documents

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(w/o enclosures)